

May 9, 2023

Ms. Dana H. Coale  
Deputy Administrator, Dairy Program  
Agricultural Marketing Service  
U.S. Department of Agriculture  
1400 Independence Avenue, S.W.  
Washington, D.C. 20250-0225

RE: NMPF Petition for FMMO Hearing on milk prices

Dear Ms. Coale:

On behalf of our Farm Bureau members across the country, we thank you and Secretary Vilsack for your leadership and support as the dairy industry strives to make needed updates and improvements to the Federal Milk Marketing Order (FMMO) system. Based on our policy positions, developed by our farmer members through an in-depth grassroots process, we urge you to accept the petition of the National Milk Producers Federation for a comprehensive FMMO hearing, based on a recognition that USDA currently has the authority to collect processing cost and yield data from dairy manufacturers crucial to updating make allowances fairly.

Trust is a critical factor in the relationship between a buyer and seller, such as a dairy farmer and milk handler, and one of the founding reasons FMMOs were established almost ninety years ago. Ensuring American consumers everywhere have access to fresh milk and dairy products while protecting the farmer from disorderly and potentially manipulative market conditions continue to be key structural objectives of the FMMO system. You and I both understand the ongoing financial hardships faced by U.S. dairy farm families and the fact that modernization of outdated elements of the FMMO system is long overdue to maintain confidence and trust by its participants.

The petition submitted to you by the National Milk Producers Federation (NMPF) on May 1 provides detailed proposals on five different milk pricing topics. Many of the recommendations reflect the consensus arrived at during the Federal Milk Marketing Order Forum AFBF led last October in Kansas City with your participation. We appreciate Secretary Vilsack's call for industry to align around recommendations, and in direct response we gathered hundreds of dairy farmers from every corner of the country who were joined by cooperative leaders, processors, USDA and other active industry participants to discuss milk pricing issues productively and respectfully. Discussions spanned a wide array of topics including updating Class pricing formulas, reducing incentives to de-pool, adding transparency to payment methods, strengthening the farmer's voice within referendums, and the general need to make the FMMO system operate effectively under current market conditions. The results of that AFBF-led Forum have been important to the separate policy development processes of both NMPF and AFBF.

One of the top items agreed upon across our Forum participants was the need for any make allowance changes to be based on mandatory and audited surveys of dairy processors. NMPF's petition, like the earlier petitions of the International Dairy Food Association (IDFA) and the Wisconsin Cheese Makers Association (WCMA), would increase make allowances primarily based on voluntary survey participation. Voluntary survey participation means processors may choose to participate or not, depending perhaps on how they believe their participation may change the price formulas and affect their own bottom line. For example, large efficient processors may decline to participate, which would bias the cost survey results upward. This could unduly increase the deduction to cover processors' costs in the milk price formula, which would unfairly skew dairy farmers' milk checks downward, and has the potential to undermine that critical trust farmers must have in the federal order program.

NMPF, like IDFA and WCMA, references the USDA-commissioned plant cost study from Dr. Mark Stephenson, which calculated new weighted average costs of production for dairy products based on voluntarily supplied data from participating processors. The 2021 released version of that study included plants that made products qualifying under USDA's National Dairy Products Sales Report. Eighty percent of butter plants, 76% of cheddar cheese plants, 71% of dry whey plants, and 40% of nonfat dry milk plants did **not** participate – which corresponded to 111 out of the 168 total plants (66%) not providing cost data. This means two-thirds of dairy manufacturing plants did not participate in a survey that is being referenced to inform minimum pricing requirements for farmers. This voluntary data was also not audited, meaning the numbers that were submitted may be inaccurate.

NMPF's petition and AFBF policy agree that mandatory surveying of cost and yield data is vital to ensuring that make allowance revisions reflect the market economics of processing. Federal Milk Marketing Orders must reflect the market to operate effectively. Based on a plain reading of the Agricultural Marketing Agreement Act, AFBF believes that USDA does, indeed, have the authority to collect and audit – on a mandatory basis – the processing cost and yield information needed to inform make allowance updates. (See 7 USC 608d(1)). The statute makes clear that *"all handlers subject to an order, shall severally, from time to time, upon the request of the Secretary, furnish him with such information as he finds to be necessary to enable him to ascertain and determine the extent to which such agreement or order has been carried out or has effectuated the declared policy of this chapter"* and that *"(f)or the purpose of ascertaining the correctness of any report made to the Secretary pursuant to this subsection, or for the purpose of obtaining the information required in any such report, where it has been requested and has not been furnished, the Secretary is authorized to examine such books, papers, records, copies of income-tax reports, accounts, correspondence, contracts, documents, or memoranda, as he deems relevant..."* Fair and market-reflective make allowances are needed to effectuate the policy under which the federal order system operates; therefore, we believe, USDA currently has the ability to collect necessary cost and yield information needed to ultimately revise make allowances. The data collection process can begin concurrently with a comprehensive federal order proceeding on milk prices, and as part of the ultimate result of this proceeding.

With the necessary framework available to USDA to update make allowances fairly, AFBF's farmer-driven policy explicitly supports – in principle – NMPF's other four recommendations which are:

1. The discontinuation of the use of barrel cheese in the protein component price formula
2. Returning to the “higher-of” Class I mover
3. Updating the milk component factors for protein, other solids, and nonfat solids in the Class III and Class IV skim milk price formulas
4. Updating the Class I differential pricing surface throughout the United States

These changes would more accurately reflect the market value of milk and milk components in the federal order system.

The current method of computing the cheese price within the protein component formula functions correctly when the difference in the market prices of block and barrels remains close to three cents – the value traditionally considered standard between processing barrel cheese and block cheese. As the NMPF petition notes, “the correlation between the block and barrel prices declined significantly from 2017 through 2022. The average spread of block over barrel prices during this period was \$0.12 per pound with a much wider range of \$0.02 per pound to \$0.28 per pound.” Given this shift, and the fact that only about 10% of cheese produced in the U.S. is priced using barrel cheese, removing barrel prices from the Class III pricing formula will better reflect the actual value of milk used in cheese, providing farmers with more appropriate compensation.

Returning to the “higher-of” Class I mover as soon as possible is a top priority of our dairy farmers. The 2018 farm bill change to the average-of plus 74 cents has yielded erratic and disruptive results since its inception in May 2019. Marketplace volatility has led to vast imbalances in pool values, often reflected in farmers’ checks as negative producer price differentials. Pool losses have continued into early 2023, with the 2018 formula change partly responsible for the over \$900 million in total lost pool value. The average-of plus 74 cents formula has not operated as intended and contributes to unnecessary market uncertainty for producers.

Farm Bureau also supports updating milk component factors for protein, other solids, and nonfat solids in the Class III and Class IV skim milk price formulas. Dairy farm families across the nation have worked tirelessly to improve the genetics, nutrition, and comfort of their animals to produce higher component values that the marketplace demands. Current milk component factors do not represent the true specifications of milk produced, meaning farmers are not receiving the full value of their hard work. AFBF will review NMPF’s specific provided values for new component factors closely but supports increasing existing values to reflect true metrics more closely.

Farm Bureau also supports an update to the Class I differential pricing surface throughout the United States. Class I location differentials, which currently range from \$1.60/cwt to \$6/cwt, are a vital element of the Class I beverage milk price formula. To support production and marketing in milk-deficit regions, location differentials are added to the base value of Class I milk to determine the total class value. The current Class I differentials were established in 1998 with only a minor update in 2008. Many of the factors used to estimate differentials effectively have since changed, to the point that current differentials no longer ensure an adequate supply of milk

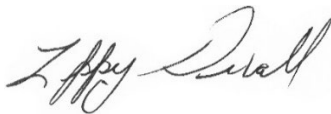
to many plants. This has resulted in disorderly marketing of milk, a condition the FMMO system is fundamentally meant to prevent. AFBF will review NMPF's specific proposed values for new Class I differentials closely but is supportive of modernizing the surface values.

Lastly, Farm Bureau believes there are other pricing measures related to these that could improve the functioning of the FMMOs, making it critical that you issue the normal request for additional proposals for this hearing to allow all parties to bring their relevant ideas to the table.

Dairy farmers continue to face market challenges as part of the high-cost, high-risk times we live in. Trust is critical to maintaining an efficient and resilient federal order system that promotes orderly marketing of milk to consumers across the country. A comprehensive Class price hearing in response to the NMPF petition, including both formula and Class I differential modernization and open to additional proposals within that scope, could balance the needs of both the farmers who produce the milk and the processors who turn it into the dairy products we know and love, which is vital to growing trust within the federal order system. Based on the understanding that USDA has the authority to collect cost and yield data from dairy product manufacturers to inform make allowance updates, we urge you to respond to NMPF's petition with a federal order pricing hearing that will ensure confidence and fairness in how dairy farmers are paid and extend the effective life of the Federal Milk Marketing Order system.

Thank you for all you do for American agriculture.

Most respectfully,

A handwritten signature in cursive script that reads "Zippy Duvall". The signature is written in black ink and is positioned above the printed name and title.

Zippy Duvall  
President